

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**SEWERAGE & WATER BOARD
OF NEW ORLEANS**

AI # 4859, 5673

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

*	Settlement Tracking No.
*	SA-AE-07-0004
*	
*	
*	Enforcement Tracking No.
*	AE-CN-04-0032
*	AE-P-04-0221
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*	

SETTLEMENT

The following Settlement is hereby agreed to between Sewerage & Water Board Of New Orleans ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a governmental entity who operates a water purification plant facility and an activated sludge process facility at New Orleans, Orleans Parish, Louisiana. ("the Facility(s)").

II

On April 23, 2004, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-04-0032, which was based upon the following findings of fact:

The Respondent owns and/or operates the Main Water Purification Plant (Agency Interest No. 5673) which is located at 8801 Spruce Street in New Orleans, Orleans Parish, Louisiana. The facility operates under Air Permit Number 2140-00128-00 issued on April 12, 1984. The

Respondent also owns and/or operates the East Bank Sewage Treatment Plant (Agency Interest No. 4859), an activated sludge processing facility located at 6501 Florida Avenue in New Orleans, Orleans Parish, Louisiana. The facility operates under Air Permit Number 2140-00089-02 issued on May 28, 1996.

On February 16, 2004, a file review of the Respondent's Main Water Purification Plant (Agency Interest No. 5673) was performed to determine the degree of compliance with the Act and Air Quality Regulations.

The following violations were noted during the course of the review:

The Respondent failed to submit an Annual Emissions Inventory for the Main Water Purification Plant in a timely manner as indicated in the table below:

Calendar Year	Report Due Date	Date Submitted
1999	March 31, 2000	No record of receipt
2000	March 31, 2001	No record of receipt
2001	March 31, 2002	No record of receipt
2002	March 31, 2003	No record of receipt
2003	March 31, 2004	No record of receipt

Each failure to submit the Annual Emissions Inventory is a violation of LAC 33:III.919.D and Section 2057(A)(2) of the Act.

On February 16, 2004, a file review of the Respondent's East Bank Sewage Treatment Plant (Agency Interest No. 4859) was performed to determine the degree of compliance with the Act and Air Quality Regulations.

The following violations were noted during the course of the review:

The Respondent failed to submit an Annual Emissions Inventory for the East Bank Sewage Treatment Plant in a timely manner as indicated in the table below:

Calendar Year	Report Due Date	Date Submitted
1999	March 31, 2000	No record of receipt
2000	March 31, 2001	No record of receipt
2001	March 31, 2002	No record of receipt
2002	March 31, 2003	No record of receipt
2003	March 31, 2004	No record of receipt

Each failure to submit the Annual Emissions Inventory is a violation of LAC 33:III.919.D and Section 2057(A)(2) of the Act.

The Department received a response dated May 26, 2004, from the Respondent relating to the history of events surrounding the violations and the actions taken to correct and prevent future occurrence of such.

On October 7, 2004, the Department issued to Respondent a Penalty Assessment, Enforcement No. AE-P-04-0221, which was based upon the same findings of fact set forth in AE-CN-04-0032 above.

A penalty in the amount of \$9,779.53 was assessed together with legal interest as allowed by law and all costs of bringing and prosecuting the enforcement action accruing after the date of issuance.

III

In response to the Penalty Assessment, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of

ONE THOUSAND THREE HUNDRED AND NO/100 DOLLARS (\$1,300.00) of which Two Hundred Seventy-three and 53/100 Dollars (\$273.53) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty, the Penalty Assessment and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to

the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Orleans Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

SEWERAGE & WATER BOARD
OF NEW ORLEANS

BY: [Signature]
(Signature)

GORDON C. AUSTIN
(Print)

TITLE: CHIEF, ENVIRONMENTAL AFFAIRS

THUS DONE AND SIGNED in duplicate original before me this 8th day of
June, 20 07, at New Orleans, LA.

[Signature]
NOTARY PUBLIC (ID # 9515)
Gerard M. Victor
(Print)

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Mike D. McDaniel, Ph.D., Secretary

BY: [Signature]
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 12th day of
September, 20 07, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 20481)
Ted R. Boyle, Jr.
(Print)

Approved: [Signature]
Harold Leggett, Ph.D., Assistant Secretary